

Message Text

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ACTION SCS-03

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TO SECSTATE WASHDC 9638

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FOR SCS GUISE FROM CONGEN SMITH

EO 11652: NA

TAGS: CGEN, MX

SUBJECT: PRISONER PROBLEMS, STOLEN VEHICLES AND AIRCRAFT AND RELATED
MATTERS

1. THIS IS A WRAPUP OF SORTS OF DEVELOPMENTS OVER LAST TWO
WEEKS REGARDING SUBJECTS.

2. DCM AND CONGEN MET ON TWO OCCASIONS WITH DEPUTY ATTORNEY
GENERAL ALBA LEYVA TO DISCUSS PRISONER MATTERS, PARTICULARLY
PAPER PREPARED BY MEXICAN JUSTICE DEPT AND, SECONDARILY,
THE RETURN OF STOLEN AIRCRAFT AND VEHICLES.

3. PAPER ONPRISONER PROBLEM (BEING POUCHED) TURNED OUT TO BE
NOT A PROPOSAL OR PLAN FOR NOTIFICATION OF ARRESTS OF AMCITS,
AS WE HAD BEEN LED TO BELIEVE, BUT A FOUR-STEP DESCRIPTION OF
THE PROCESS, UNDER MEXICAN LAW, FROM ARREST TO SENTENCING OF
AN ACCUSED, MOST OF WHICH WE ALREADY KNOW.

4. THE PAPER MADE CLEAR, AND THIS WAS EXPANDED UPON ORALLY
BY ALBA LEYVA, THAT GOM IS UNDER NO OBLIGATION, UNDER BILATERAL
CONSULAR CONVENTION, TO NOTIFY US OF ARREST OF AMCIT AND,
UNDER VIENNA CONSULAR CONVENTION IS UNDER SUCH AN
OBLIGATION ONLY WHEN DETAINEE SO REQUESTS. WE WERE COMPELLED
TO AGREE.

5. WHEN QUERIED ABOUT FONOFF NOTE OF JULY 26, 1974 STATING

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THAT ALL AUTHORITIES HAD BEEN INSTRUCTED TO NOTIFY US OF

ARREST OF AMCITS, ALBA LEYVA RESPONDED, IN EFFECT, THAT FONOFF AND JUSTICE WERE OF EQUAL RANK, THAT FONOFF COULD NOT ISSUE ORDERS TO JUSTICE AUTHROITIES AND THAT HE COULD ONLY INTERPRET FONOFF NOTE AS A "SUGGESTION" OR "RECOMMENDATION."

6. WHEN QUERIED ABOUT CASES OF REFUSAL OF FEDERAL POLICE AUTHORITIES TO NOTIFY US IN CASES WHERE DETAINED AMCIT SO REQUESTED, ALBA LEYVA ADMITTED THIS WAS NOT CORRECT, THAT UNDER MEXICAN LAW NO PERSON COULD BE KEPT INCOMMUNICADO AND THAT COMMUNICATION WAS GUARANTEED UNDER BILATERAL CONVENTION. HE DIFFERENTIATED BETWEEN COMMUNICATION AND ACCESS. HE SUGGESTED SUCH CASES BE TAKEN UP WITH AIDE CHAVEZ CALVILLO WHO HAD JOINED MEETING AND APPEARS TO BE AUTHOR OF PAPER.

7. WITH RESPECT TO 72 HR PERIOD IMMEDIATELY FOLLOWING ARREST WHICH WE HAD CHARACTERIZED AS INCOMMUNICADO, ALBA LEYVA SAID THERE WAS NO SPECIAL PROVISION IN CONSTITUTION OR LAW BUT THAT SUPREME COURT HAD INDICATED 72 HRS WAS APPROPRIATE. HOWEVER, THIS WAS FLEXIBLE (POCO ELASTICO) BUT WOULD NOT EXCEED A WEEK.

8. QUESTION OF RETURN OF STOLEN AIRCRAFT AND AUTOMOBILES WAS DISCUSSED. DCM AND CONGEN RELATED GROWING CONCERN IN US OVER FAILURE OF 1936 CONVENTION PROCEDURES TO WORK, OVER APPARENT USE OF VEHICLES AND AIRCRAFT BY VARIOUS GOM DEPARTMENTS PENDING RETURN AND OVER INABILITY OF OWNERS TO RECOVER VEHICLES AND AIRCRAFT WITHOUT PAYING SPECIAL "FEES". ALBA LEYVA AGREED WAS A PROBLEM AND HANDED OVER PAPER ON AIRCRAFT AND VEHICLE PROBLEM (BEING POUCHED) WHICH, AT FIRST READING, APPEARS SIMILAR TO PAPER ON PRISONER PROBLEM.

9. CONOFF PETER WOOD, TRAVELING TO LOS ANGELES ON PERSONAL BUSINESS THIS WEEKEND, HAS AGREED TO MEET WITH GROUP OF RELATIVES AND FRIENDS OF PRISONERS. HE WILL TRY TO KEEP REMARKS GENERAL, EMPHASIZING EMBASSY'S POSITIVE APPROACH, IN HOPES OF IMPROVING BOTH COMMUNICATION AND COOPERATION BETWEEN EMBASSY AND PRISONERS, THEIR FAMILIES AND FRIENDS.
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